

## **BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX**

### **STATUTORY PROVISION**

Title 30, Delaware Code, Chapters 20-29, and 43.

### **COLLECTION/ADMINISTRATIVE AGENCY**

The Department of Finance, Division of Revenue administers and collects the business and occupational license and gross receipts tax.

### **GENERAL LIABILITY**

Delaware imposes a tax on the gross receipts of most businesses. Business and occupational license tax rates range from 0.077% to 1.92%, depending upon the category of business activity. Unless specified otherwise by statute, the term "gross receipts" comprises the total receipts of a business; no deductions for the cost of goods or property sold, labor costs, interest expense, discount paid, delivery costs, state or federal taxes, or any other expenses are allowed. In instances where a taxpayer derives income from more than one type of activity, separate licenses and gross receipts taxes are required for each activity.

### **TAX RATES**

<b>TITLE 30, <u>DELAWARE</u> <u>CODE</u>; SECTION:</b>	<b>TAX TYPE</b>	<b>ANNUAL FEE</b>	<b>TAX RATE</b>	<b>EXCLUSION</b>
2703	Automobile Manufacturer	\$75 for each place of business	0.135%	\$1,000,000/month
2502	Contractors	\$75	0.499%	\$80,000/month
2907	Farm Machinery Retailers	\$75 for each place of business	0.077%	\$80,000/month
2903	Food Processors	\$75 for each place of business	0.154%	\$80,000/month
2301(b) & (d)	General Services	\$75 + \$25 for each extra establishment	0.307%	\$80,000/month
2904	Commercial Feed Dealers	\$75 for each place of business	0.077%	\$80,000/month

<b>TITLE 30, <u>DELAWARE</u> <u>CODE</u>; SECTION:</b>	<b>TAX TYPE</b>	<b>ANNUAL FEE</b>	<b>TAX RATE</b>	<b>EXCLUSION</b>
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4305	Lessors	\$75 + \$25 for each extra establishment	0.230%	\$240,000/quarter
4302	Lessees	N/A	1.536%	None
4305	Motor Vehicle Lessors	\$75 + \$25 for each extra establishment	0.288%	\$240,000/quarter
4302	Motor Vehicle Lessees	N/A	1.920%	None
2702	Manufacturers	\$75 for each place of business	0.144%	\$1,000,000/month
2301(a) & (d)	Occupations	\$75 + \$25 for each extra establishment	0.307%	\$80,000/month
2906	Restaurant Retailers	\$75 + \$25 for each extra establishment	0.499%	\$80,000/month
2908	Grocery Supermarket Retailers	\$75 + \$25 for each extra establishment	First \$2.0 million @ 0.307%; 0.576% in excess of \$2.0 million	\$80,000/month
2905	Retailers	\$75 + \$25 for each extra establishment	0.576%	\$80,000/month
2910	Tire Retailers	None.	\$2 per tire	None
2905 (f) –(g) & 6 Del. Code, Chapter 47	Transient Retailers (defined under 6 Del. Code, Chap 47)	\$75 + \$25 for each extra establishment	0.576%	\$80,000/month
2905(f)-(g)	Transient Retailers <sup>①</sup> (defined under Title 30)	\$25	0.576%	\$3,000
2905 (i)	Transient Nursery Retailers <sup>②</sup>	\$75 for each location the applicant seeks to do business	0.576%	\$3,000
2902 (b)-(c)(2)	Wholesalers	\$75 for each place of business	0.307%	\$80,000/month
2902 (b)-(c)(4) and 7 Del. Code, § 9114	Petroleum Wholesalers	\$75 for each place of business	1.399% <sup>③</sup>	\$80,000/month
2905 (a)-(b), (h)	Petroleum Retailers	\$75 + \$25 for each extra establishment	1.476% <sup>④ ⑤</sup>	\$80,000/month

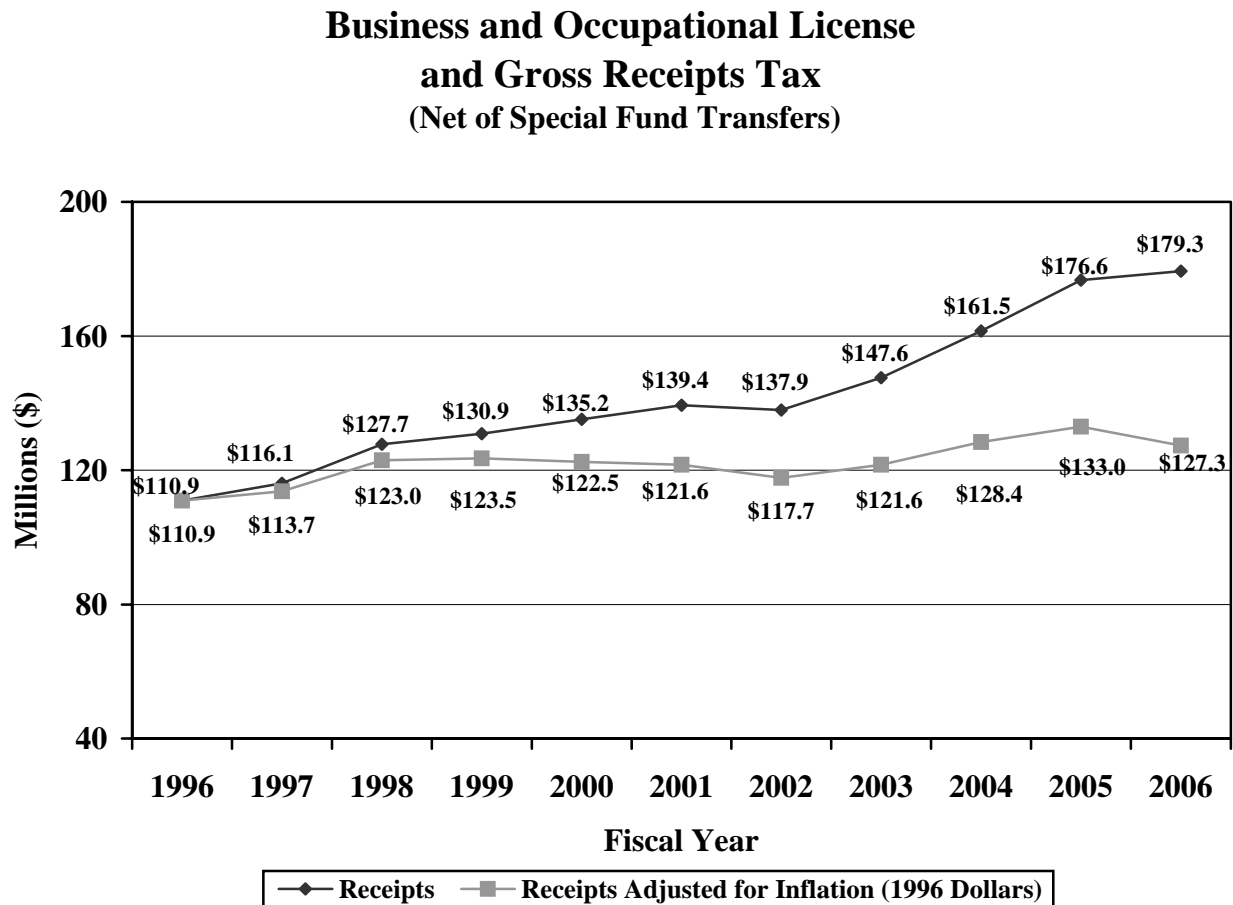
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- ① The maximum length of license is 10 days.
- ② The maximum length of license is 30 days.
- ③ Composite rate includes the General Fund tax of 0.307%, Hazardous Substance tax of 0.9% and the Petroleum Surtax of 0.192%.
- ④ Composite rate includes the General Fund tax of 0.576%, Hazardous Substance tax of 0.9%.
- ⑤ Tax applies only in the event the petroleum product was not taxed at the wholesale level.

### BUSINESS DEVELOPMENT TAX INCENTIVES

See Appendix I (page 176) for a description of the employment and investment incentives commonly referred to as the “Blue Collar Job Act.”

### TAX RECEIPTS



### TAX BASE

Business and occupational licenses and gross receipts taxes are categorized and defined as

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follows:

**Contractor** - Firms in the business of furnishing labor--or both labor and materials--as part of the following services: construction, alteration, repair, disassembly, or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, or any other type of structure. This includes firms that improve, alter, or develop any real property.

Each resident and/or nonresident contractor is required to pay tax on the gross receipts from any services and/or material supplied in connection with any real property located in Delaware. Total taxable gross receipts may be reduced by the amount of payments made to licensed subcontractors. To qualify for a deduction, the contractor must complete Form 1280 and attach it to each monthly return. For purposes of this tax, all branches or entities comprising an enterprise with common ownership or common direction and control are considered one business, which is entitled to a single \$80,000 monthly exclusion. Contractor gross receipts are taxed at the rate of 0.499%.

**Retailer** - Any person engaged as the owner or agent in the business of selling or exchanging goods for cash or barter or any other consideration on the assumption that the purchaser of such goods has acquired the goods for ultimate consumption and not resale. This definition includes automatic merchandising machine operators, regardless of the product dispensed or vended; retail plant nurserymen and florists; hucksters; peddlers; trading stamp redemption stores; catalog stores; and branch stores.

Gross receipts include total consideration received by a retailer for all goods sold or services rendered within the State. Gross receipts do not include the amount of tobacco product or motor fuel taxes paid or payable to the State. The first \$80,000 of a retailer's monthly gross receipts are not subject to tax. All branches or entities comprising an enterprise with common ownership, or common direction and control, are considered one business and entitled to a single monthly exclusion. Retailers of petroleum products are not required to pay a tax on retail sales of petroleum products as long as the appropriate wholesale-level tax has been paid. Retailer gross receipts are taxed at the rate of 0.576%.

**Farm Machinery Retailer** - Any person engaged in the business of selling farm machinery, supplies, or materials that are to be directly consumed or used by the purchaser in the conduct of any business. Every farm machinery retailer owes gross receipts tax on the total gross receipts attributable to all goods sold within the State. An exclusion of \$80,000 is allowed against gross receipts for each month. Farm machinery retailer gross receipts are taxed at the rate of 0.077%.

**Restaurant Retailer** - Any person who operates a restaurant, snack bar, soda fountain, take-out food service, catering service, private eating or drinking club, or other eating establishment must pay gross receipts tax on monthly receipts exceeding \$80,000. Restaurant retailers are taxed at the rate of 0.499%.

**Tire Retailer** - In addition to the retailer license requirements, any person in this state who engages in the retail sale of tires must also obtain a tire retailer's license at no additional cost. Tire

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retailers shall pay a \$2 fee for every retail tire sold.

**Transient Retailer** - As defined in Title 6, Delaware Code, Chapter 47, retailers who transact business in Delaware from any temporary structure or motor vehicle for less than four (4) months must obtain a transient retailer's license. Such retailers pay the same license fees and tax rate, and receive the same monthly exclusion as year-round retailers. The license fee is \$75 and \$25 for each separate location. The monthly exclusion is \$80,000, and the tax rate is 0.576%.

A transient retailer must register with the Division of Revenue, describing its merchandise to be sold and the name and address of its registered agent within Delaware. Additionally, transient retailers must obtain a bond of \$1,000.

Retailers falling within the exemption categories enumerated in Title 6, Delaware Code, Chapter 47, but who wish to conduct business for ten days or less during any year and who do not intend to become a permanent retailer are not treated like year-round retailers. In such cases, the transient retailer license fee is \$25. These transient retailers pay tax at a rate of 0.576% on all receipts received in excess of \$3,000.

**Grocery Retailer** - Retailers with more than 6,000 square feet of retail floor space, more than 12,000 individual food stock items, and which derive more than 90% percent of their total gross receipts from the sale of food items that are not immediately consumable, are subject to reduced tax rates on a portion of their gross receipts. As with other retailers, the first \$80,000 in monthly gross receipts is excluded from tax. The first \$2.0 million in taxable gross receipts are subject to tax at the rate of 0.307%. Monthly taxable gross receipts more than \$2.0 million are taxed at the rate of 0.576%.

**Wholesaler** - Any owner or agent in the business of selling to, or exchanging with, another person goods for cash, barter, or any consideration for the purpose of resale by the person who acquires the goods sold or exchanged. The definition of "goods" includes (without limitation) goods sold or exchanged through outlets and warehouses of persons whose principal place of business is located inside or outside this State. Every wholesaler must pay the gross receipts tax based on the total consideration received for sales of tangible personal property physically delivered within the state to the purchaser or his agent.<sup>1</sup> Not included are receipts from sales of goods delivered by United States mail, or common or contract carrier to a place outside the State. Tobacco product and motor fuel taxes paid or payable to the State are excluded as well. (Wholesale sales of petroleum products fall under a separate tax category, described below.) In computing the taxes due on such gross receipts, an exclusion of \$80,000 is allowed each month. All branches or entities under common ownership, or common direction and control, are considered one business for tax purposes, entitling them to a single monthly exclusion. Monthly receipts in excess of the exclusion are taxed at the rate of 0.307%.

**Food Processor** - All firms engaged in the processing of food or foodstuffs that are to be resold by the person acquiring the product. This definition includes each firm engaged in baking, poultry processing, or canning. Every food processor shall pay a gross receipts tax on the total gross receipts

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<sup>1</sup> Sales to the State or the federal government are considered wholesale sales.

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attributable to all goods sold within the state. In computing the taxable gross receipts for each month, an exclusion of \$80,000 is allowed. Amounts in excess of this deduction are taxed at a rate of 0.154%.

**Petroleum Products** - Any person engaged in the business of buying and selling petroleum products. For purposes of the gross receipts tax, "petroleum product" means crude oil, or any portion thereof that is liquid at 70 degrees Fahrenheit and standard atmospheric pressures, including motor fuel, gasohol, other blended fuels, diesel fuel, aviation fuel, jet fuel, heating oil, motor oil, and other petroleum based lubricants.

The tax consists of three components. First, sales of petroleum products are subject to the rate generally applied to other businesses: 0.307% for wholesalers and 0.72% for retailers. Second, wholesale sales of petroleum products are subject to an additional tax of 0.192%. Lastly, a 0.90% Hazardous Substance tax is imposed. The Hazardous Substance tax is scheduled to sunset on December 31, 2011. When imposed on the wholesaler, the Hazardous Substance tax may be passed along to the buyer as a separate line item on the invoice.

Generally speaking, retail sales of petroleum products are taxable only if no tax has been paid at the wholesale level. Retail sales of home heating oil are not taxed under any circumstance. Petroleum wholesalers are entitled to a \$80,000 monthly exclusion. Retailers receive a monthly exclusion of \$80,000. The following table summarizes the tax treatment of petroleum products:

PRODUCT	PRODUCT SOLD TO A WHOLESALE OR RETAILER	PRODUCT SOLD TO ULTIMATE CONSUMER
Products not used for heating ambient space -- e.g., gasoline, motor oil, jet fuel, lubricants, etc. (Note: Crude oil is not subject to the Hazardous Substance Tax.)	<u>Component</u> General 0.307% Additional 0.192% Hazardous Substance <u>0.900%</u> Total 1.399%	<u>Component</u> General 0.576% Hazardous Substance <u>0.900%</u> Total 1.476%  Applies only if tax not paid at wholesale level.
Products used to heat ambient space -- e.g., home heating oil	<u>Component</u> General 0.307% Additional 0.192% Hazardous Substance <u>0.900%</u> Total 1.399%	Not Taxable

**Commercial Feed Dealers** - Any person engaged in the business of buying, selling, or shipping commercial feeds. Every commercial feed dealer must pay a gross receipts tax of 0.077% on the total gross receipts attributable to all goods sold within the State. In computing the taxable gross receipts for each month, an exclusion of \$80,000 is allowed.

**Manufacturers** - Any firm or person engaged in the business of manufacturing products in whole or in part within Delaware. "Manufacturing" includes any processing, working, development,

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alteration, conditioning, or reconditioning of raw materials or products into products of a different character, either finished or unfinished. The term "product" includes goods, materials, wares, merchandise, machinery, vehicles, solids, liquids, or gases which are produced as a part of a manufacturing process. The manufacturer's gross receipts tax rate is 0.144%. The tax is based on the total gross receipts multiplied by the percentage of manufacturing costs in Delaware to the total costs of manufacturing. In computing the tax due on such gross receipts, total gross receipts are reduced by a monthly exclusion of \$1,000,000. For purposes of this tax, all branches or entities comprising an enterprise with common ownership or common direction and control are considered one business, and are entitled to a single monthly exclusion. Manufacturers are also subject to licensing as wholesalers or retailers and to the respective gross receipts tax. For tax periods beginning after December 31, 2005, Automobile Manufacturers will be subject to a reduced rate of 0.135%.

**Lessee/Lessor-** A lessor of tangible personal property is a person who grants to a lessee the right to use property for a specified period. The lessor's gross receipts tax is based on the rental payments received under the lease. The lessee's gross receipts tax is imposed on the use of the tangible personal property within the State. The lessor is required to collect and remit the taxes imposed on both parties.

**Lessor:** Lessors may take an exclusion of \$240,000 against their gross receipts from leases for each quarter. Gross receipts more than the quarterly exclusion are taxed at the rate of 0.230%.

**Lessee:** Lessees pay a 1.536% tax on the value of rental payments they make to a lessor.

**Motor Vehicle Lessee/Lessor -** A lessor of a motor vehicle is a person who grants a lessee the right to use the motor vehicle for a specified period. The lessor's gross receipts tax is based on the rental payments received under the lease. The lessee's gross receipts tax is imposed on the use of the motor vehicle within the State. The lessor is required to collect and remit the taxes imposed on both parties.

**Motor Vehicle Lessor:** Lessors are entitled to an exclusion of \$240,000 against their gross receipts from lease for each quarter. Gross receipts more than the quarterly exclusion are taxed at the rate of 0.288%.

**Motor Vehicle Lessee:** Lessees pay a 1.92% tax on the value of rental payments they make to a lessor.

**Occupational, Professional and General Service-** Twenty-five occupations and any business engaged in what is commonly referred to as a service industry must obtain an annual business license. All holders of professional, occupational, and service licenses will pay tax at the rate of 0.307% on taxable gross receipts. Taxable gross receipts include total consideration received by a licensee for goods sold, services rendered or other income producing transaction within the state, less an exclusion of \$80,000 per month.

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Certain occupations are exempt from the tax, although an annual license is still required. The following occupations are not required to pay gross receipts taxes:

- Circus Exhibitor
- Sales Representative
- Showperson
- Taxicab or Bus Operator
- Transportation Agent
- Outdoor Musical Festival Promoter
- Travel Agency
- Trailer Park
- Drayperson (or Mover)\*
- Finance or Small Loan Agency
- Tourist Home\*\*
- Hotel\*\*
- Motel\*\*
- Non-Resident Junk Dealer

\* Intrastate receipts are taxable; interstate receipts are exempt

\*\* Subject to the Public Accommodations Tax

For the occupations listed below, taxable gross receipts are based on commissions and fees earned:

- Advertising Agency
- Auctioneer
- Broker
- Manufacturer's Agent or Representative
- Mercantile Agency or Collection Agency
- Real Estate Broker

## **LEGISLATIVE HISTORY**

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
3/27/75	4/1/75	Set the annual license fee for most businesses at \$50. Changed the retailer tax base to aggregate gross receipts from the purchase price of goods bought for sale. Required contractors, retailers, manufacturers, etc. to pay tax on monthly basis instead of quarterly. Changed the monthly exclusion for retailers to \$10,000 per month, from \$20,000 per quarter. Gave restaurateurs a \$5,000 monthly exemption in place of \$50,000 annual exclusion. Made service industries subject to gross receipts tax (60 Del. Laws c 24; HB 222).
7/6/77	7/6/77	Raised license taxes in 9 categories. Increased the occupational license fee on gross receipts to 0.4%, from 0.3% (61 Del. Laws c 117; HB 590).
8/12/77	7/6/77	Increased the license tax for retailers to 0.75% from 0.55% (technical correction for oversight in HB 590) (61 Del. Laws c 184; HB 594).



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<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
6/6/78	6/6/78	Reduced the gross receipts tax rates wholesalers and retailers for persons who are 65 years of age or older and whose annual gross receipts are less than \$5,000: the fee is 25% of the usual license fee payment (61 Del. Laws 312; HB 811).
7/14/79	7/14/79	Established a sliding-scale license fee reduction for manufacturers and wholesalers who build or expand a facility by at least 25 employees and \$1.0 million. License fees are reduced by 90% in the first year and 5% in the tenth (62 Del. Laws c 155; HB 402).
4/27/81	4/27/81	Excluded from gross receipts tax the amounts derived from interstate transport operations; intrastate transactions remain subject to tax (63 Del. Laws c 12; HB 92).
2/18/81	5/1/81	Provided for the licensure and taxation of affiliated finance companies (63 Del. Laws c 2; HB 28).
6/29/82	7/1/82	Reduced to 50% of tax liability the maximum penalty for late filing of license tax returns. Imposed a negligence penalty of 10% of the amount of deficiency and a fraud penalty of 100% where any part of the deficiency is due to fraud. If imposed, the fraud penalty supplants the late filing and negligence penalties (63 Del. Laws c 297, 298; HB 638, 639, respectively).
10/15/82	1/1/83	Allowed quarterly rather than monthly filing if taxable gross receipts are less than \$2,000 month. Required only annual filing for occupational licensees whose quarterly taxable receipts are less than \$6,000 (63 Del. Laws c 314; HB 760).
7/17/84	1/1/85	Applied a "destination" test in determining whether sales of tangible personal property are to be included in taxable gross receipts. Taxable gross receipts to include amounts received from sales of tangible personal property physically delivered in Delaware (64 Del. Laws c 374; HB 686).
8/13/84	1/1/85	Created new gross receipts tax credits for qualified businesses locating or expanding in "targeted" low-income areas. Offered an exemption from gross receipts tax for 5 years and sliding-scale reductions for the succeeding 10 years (64 Del. Laws c 460; HB 698).
7/3/85	4/30/85	Changed the gross receipts tax definition for harness racing operators to "commissions," from "total contributions" (65 Del. Laws c 121; HB 269).

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<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/12/85	7/1/85	Eliminated the exemption of local manufacturers from the wholesalers' tax. Reduced the manufacturers' rate to 0.3% from 0.4%, and allowed a monthly exclusion of \$500,000. Allowed a \$10,000 monthly exclusion in the computation of the wholesaler's tax (65 Del. Laws c 184; HB 373).
7/12/85	7/1/85	Provided a limited tax exemption for products that a manufacturer uses or consumes in the production, or which are integral parts of the manufacturer's ultimate product (65 Del. Laws c 169; HB 307).
7/12/85	1/1/85	Exempted Foreign Sales Corporations from gross receipts tax (65 Del. Laws c 155; SB 162).
7/12/85	7/1/85	Exempted export trading companies from license tax. (65 Del. Laws c 160; SB 238).
7/2/86	1/1/87	Decreased the manufacturer's gross receipts tax rate to 0.25%, from 0.3% (65 Del. Laws c 388; SB 458).
7/2/86	1/1/87	Removed federal excise taxes on gasoline and special fuel from the definition of gross receipts for retailers and wholesalers (65 Del. Laws c 389; SB 469).
7/2/86	1/1/87	Increased the monthly exclusions for retailers to \$25,000, from \$10,000; and for restaurant retailers to \$25,000, from \$5,000 (65 Del. Laws c 390; SB 576).
7/2/86	1/1/87	Created a \$6,000 monthly exclusion (\$18,000 per quarter) for business and occupational licensees, contractors, food processors, commercial feed dealers, and farm machinery retailers, and personal property lessors (65 Del. Laws c 392; HB 559).
7/3/86	1/1/87	Increased filing thresholds, allowing taxpayers to file quarterly or annually rather than monthly or quarterly. Increased threshold amounts as follows: withholding to \$600, from \$200; occupational to \$15,000, from \$6,000; contractors to \$7,500, from \$2,000; manufacturers to \$7,500, from \$2,000; retailers to \$7,500, from \$2,000; wholesalers to \$7,500, from \$2,000 (65 Del. Laws c 402; SB 457).
7/3/86	1/1/87	Eliminated gross receipts tax on sales of grain, if the grain is purchased from a Delaware farmer (65 Del. Laws c 406; SB 488).
-	1/1/87	Increased the bonding requirements for non-resident contractors to 6% of the contract amount and required registration with the Department of Labor and Industrial Accident Board prior to the issuance of a license. Eliminated the

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<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		requirement for a contractor to obtain a separate business license for each construction site (65 Del. Laws c 476; HB 558).
7/8/86	7/8/86	Required taxation of mail order distributors as if they were wholesalers rather than as retailers as long as they do not operate a retail outlet in Delaware (65 Del. Laws c 478; HB 617).
7/2/86	1/1/87	Required certain transient retailers to obtain a bond of up to \$1,000 and to register its Delaware resident agent and a description of the goods it intends to sell (65 Del. Laws c 391; HB 427).
7/3/86	1/1/87	Excluded sales of goods to be included in a product subsequently to be manufactured in Delaware from the manufacturer's gross receipts tax (65 Del. Laws c 481; HB 644).
7/8/87	7/8/87	Granted authority to the taxpayer and the Division of Revenue to extend statutes of limitation by mutual agreement (66 Del. Laws c 103; HB 267).
7/8/87	7/8/87	Eliminated news carriers under age 18 from the definition of retailer (66 Del. Laws c 104; HB 268).
7/9/87	7/9/87	Extended the definition of manufacturer to firms that offer manufacturing services on components to be included in the product of another manufacturer (66 Del. Laws c 149; SB 207).
6/15/88	6/15/88	Clarified the exemption of REMIC's from license and gross receipts taxes (66 Del. Laws c 267; HB 465).
7/14/88	1/1/89	Increased exclusions from the gross receipts tax as follows: professional and occupational (including general service) licensees to \$45,000 per quarter; contractors to \$12,000 per month; retailers and restaurant retailers to \$35,000 per month; food processors to \$13,000 per month; farm machinery retailers to \$13,000 per month; lessors of personal property to \$39,000 per quarter; wholesalers to \$20,000 per month; and manufacturers to \$600,000 per month. Changed occupational and service gross receipts tax payments to monthly (previously quarterly) for firms with taxable gross receipts in excess of \$30,000 (66 Del. Laws c 381; HB 691).
6/27/89	6/27/89	Allowed the Director of Revenue to waive the bonding requirement for non-resident contractors in whole or in part or to accept cash bonds in any amount; and to accept bank letters of credit in lieu of surety bonds. Liberalized the definition of "resident contractor." Allowed prorating of initial license fees for

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		certain businesses. Required security businesses to be licensed annually. Created criminal penalties for non-disclosure of vending machine locations. Reduced record retention requirements for personal property lessors to three years from six years (67 Del. Laws c 40; SB 55).
7/1/89	7/1/89	Allowed for revocation of business licenses for businesses with tax, penalty, and interest delinquencies exceeding \$2,500 and 180 days. Made responsible persons liable for license tax penalties (67 Del. Laws c 40; SB 55).
7/17/89	7/17/89	Extended "Blue Collar" credits to January 1, 1991 (67 Del. Laws c 120; SB 294).
-	1/1/90	Raised the annual license fee for transient retailers to \$75 per year for the first site and \$25 for each additional site (67 Del. Laws; HB 728).
7/2/90	7/2/90	Exempted crabbers from having to obtain a wholesaler's license and removed the proceeds of crabbing from the definition of wholesale gross receipts (67 Del. Laws c 287; SB 396).
7/2/90	1/1/91	Eliminated the retail tax on most sales of petroleum products. Increased the wholesale tax on such products to 1.25%, and dedicated 0.6% to the Hazardous Substances Cleanup Fund (67 Del. Laws c and 290; HB 708 and 710).
7/5/90	-	Exempted from license taxes any business trusts that qualify as investment companies. Exempted any receipts received by investment advisors, transfer agents, and principal underwriters from investment companies (67 Del. Laws c 296; HB 761).
7/2/90	1/1/91	Limited licensing requirements generally to persons who hold themselves out to the public (excludes those who serve as employees or working as partners or contractors on behalf of a larger business). Reduced the number of service categories to 27. Increased most annual license fees by approximately 50%. Increased second location licenses fees to \$25 (67 Del. Laws c 261; HB 728).
6/29/90	9/1/90	Exempted alcoholic beverages from the wholesale gross receipts tax (67 Del. Laws c 258; HB 774).
2/8/91	1/1/91	Extended "Blue Collar" tax credits through 1991 (68 Del. Laws c 6; HB 96).
7/1/91	7/1/91	Imposed a 10% surtax on all gross receipts taxes, reduced by a non-refundable credit. Clarified application of the wholesalers' tax to common carriers and

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		sales to the United States Government (68 Del. Laws c 80; HB 347).
7/11/91	7/11/91	Required bidders on contracts in excess of \$50,000 to initiate the license application procedure prior to bid (68 Del. Laws c 151; HB 165).
7/17/91	7/17/91	Removed crude oil from the 0.6% Hazardous Substance tax imposed on wholesalers of petroleum products, for the period 7/7/91 to 3/30/92 (68 Del. Laws c 183; HB 378).
8/1/91	1/1/92	Repealed various procedural provisions in light of enactment of Title 30, Chapter 5 (68 Del. Laws c 187; HB 281).
2/6/92	1/1/92	Extended existing "Blue Collar" job credits to 1997. Expanded the scope of activities eligible for blue collar credits to include computer processing, engineering services, and consumer credit reporting services. Allowed taxpayers qualifying for the alternative investment tax credit to claim the license fee reduction and "targeted area" provisions equal to 75% of the amount otherwise allowed (68 Del. Laws c 202; HB 415).
7/16/92	7/16/92	Extended to 3/30/93 the exclusion of crude oil from the 0.6% tax on petroleum products' wholesalers (68 Del. Laws c 393; HB 455).
7/6/93	7/6/93	Exempted horse racing, wagering, or betting from occupational license requirements and license fees, to the extent these activities are related to the conduct of horse racing meets (69 Del. Laws c 83; HB 310).
7/12/93	6/30/93	Increased the Hazardous Substance Cleanup tax on petroleum products to 0.9% from 0.6%. Extended the exemption for crude oil sales through 3/31/94 (69 Del. Laws c 135; HB 235).
7/1/94	1/1/95	Repealed the 10% surtax on gross receipts taxes effective 1/1/95, versus an original expiration date of July 1, 1995. Changed filing frequencies for most gross receipts taxpayers and instituted an annual "lookback period" for determining filing frequencies. Eliminated crude oil from the definition of "petroleum products" for purposes of the Hazardous Substance tax (69 Del. Laws c 289; HB 627).
6/27/96	7/1/93	Made real estate developers subject to the tax imposed on contractors, effective retroactively for receipts received after June 30, 1993 (70 Del Laws c 401; HB 453).

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<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/5/96	1/5/97	Provided that individuals delinquent in child support payments will be denied licenses otherwise issued by the Division of Revenue or Division of Professional Regulation to practice a profession, business, or occupation (70 Del. Laws c 452; HB 496).
7/11/96	1/1/97	Reduced tax rates by 4% across-the-board. Created a category for license and gross receipts tax purposes for "grocery supermarket retailers" with a two-tiered rate structure for these businesses. The rates are 0.384% on the first \$2 million of monthly taxable gross receipts, and 0.720% on those in excess of \$2 million. Grocery supermarket retailers are defined as firms that occupy an area of more than 6,000 square feet, offer at least 12,000 different food items for retail sale, and derive no more than 10% of their gross receipts from food intended for immediate consumption (70 Del. Laws c 484; SB 481).
7/11/96	1/1/97	Relieved small, closely-held related businesses from paying gross receipts or use taxes on transactions among themselves. Clarified that sales between all other related firms are taxable. Required that qualifying firms be owned by the same five or fewer individuals or by members of a family (70 Del. Laws c 489; HB 678).
7/11/96	7/1/96	Extended "Blue Collar Jobs" credits through 2001. Expanded scope of activities eligible to include aviation services, non-custom computer software, and telecommunications services (70 Del. Laws c 487; SB 484).
5/22/97	12/31/96	Clarified the tax treatment of fungible commodities (71 Del. Laws c 39; SB 38).
7/23/97	7/23/97	Repealed the requirement that, in order to qualify for "Blue Collar" Tax Credit, the taxpayer must make the qualified investment and employ the requisite number of employees during the same taxable year and instead requires that the two events occur during the same consecutive 12 months (71 Del. Laws c 217; HB 257).
7/9/97	12/31/97	Created a separate license category for motor vehicle lessors/lessees and earmarked revenues collected thereunder to the Transportation Trust Fund (71 Del. Laws c 150; HB 400).
6/25/98	6/25/98	Clarified that all licenses issued by the Division of Revenue expire on December 31 of each year and created a \$15 fee for the replacement of a lost or stolen license. Increased the threshold, from \$3,000 to \$8,500, to obtain a retailer license for their incidental sales of goods for holders of personal and

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		professional services licenses; effective 1/1/99 (71 Del. Laws c 314; HB 605).
7/1/98	1/1/99	Increased the monthly exclusion and standardized it at \$50,000 for all business activities, except manufacturers which was increased to \$1,000,000. Increased the threshold for filing monthly tax returns for wholesalers, manufacturers and various agribusinesses. Changed the due date for quarterly tax returns from the 20 <sup>th</sup> day of the month following the close of the quarter to the last day of that month (71 Del. Laws c 351; SB 387).
7/14/98	7/14/98	Created a limited exemption to the Wholesalers' Gross Receipts Tax for a non-U.S. corporation that sells active ingredients to a Delaware corporation producing pharmaceutical products that is controlled by the taxpayer corporation (71 Del. Laws c 440; HB 694).
7/14/98	1/1/99	Exempted rents on leases of agricultural equipment (71 Del. Laws c 439; HB 487).
7/1/99	7/1/99	Clarified that public utilities are not exempt from obtaining occupational licenses and paying gross receipts taxes on activities that are exempt from the public utility tax.
7/1/99	1/1/00	Exempted grocery stores and supermarkets from obtaining a restaurant license when less than 10% of their gross receipts from the sale of food for human consumption is "immediately consumable" (72 Del. Laws c 176 HB 216).
7/16/99	1/1/00	Provided that persons contracting for hauling construction-related property (but not actually engaged in the hauling) shall be licensed as contractors and allowed a deduction for amounts paid to draypersons in computation of sales for gross receipts tax purposes (72 Del. Laws c 166; HB 335).
7/20/99	7/20/99	Amended Travelink program by: adding Welfare-to-Work provisions, updating eligibility requirements, and establishing a \$100,000 annual tax credit cap (72 Del. Laws c 188; HB 292).
7/20/99	1/1/00	Changed licensing requirements to permit Delaware businesses that process raw materials owned by out-of-state customers to be licensed manufacturers (72 Del. Laws c 202; SB 128).
7/23/99	8/23/99	Established a \$200 penalty for businesses that, because of willful neglect, fail to renew their business license (72 Del. Laws c 220; HB 231).

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
8/3/99	1/1/00	Reduced manufacturers' tax rate by 25%, from 0.24% to 0.18% (72 Del. Laws c 245; SS 1 to SB 90).
6/28/00	6/28/00	Reauthorized the Hazardous Cleanup Act and Hazardous Substance Cleanup Fund through December 31, 2011 (72 Del. Laws c 353; SB 356, w/SA1).
7/18/00	1/1/00	Clarified that the exclusion from taxable wholesaler gross receipts for unfinished pharmaceutical products (71 Del Laws, c 440) is available to all businesses regardless of the form of entity under which a business may operate. Extended the exclusion to cover finished ethical pharmaceutical products that have been formulated or packed within the state (72 Del. Laws, c 464; HB 614).
7/18/00	1/1/00	Extended the "Blue Collar Jobs" credit program for an additional five years, through 2006 (72 Del. Laws c 442; SB 304).
7/12/01	10/1/01	Updated definition of "Brownfields" (73 Del. Laws c 183; SB 183).
7/9/02	1/1/02	Clarified that the use tax does not apply to reusable pallets and containers rented by poultry processors and others (73 Del. Laws c 390; HB 286).
1/31/03	2/1/03	Exempted from the wholesalers' and retailers' license and gross receipts tax the sale of aircraft weighing 12,500 pounds or more (74 Del. Laws c 3; SB 3).
6/30/03	1/1/04	Allowed the procurement of occupational and business licenses for terms up to three years (74 Del. Laws c 108; HB 241).
7/19/04	7/19/04	Required transient nursery retailers to obtain 30-day business licenses and meet registration requirements established by the Department of Agriculture (74 Del. Laws c 375; SB 341).
7/12/05	1/1/05	Broadened the business license categories which are eligible for a reduction in license fees when the applicant is age 65 or older. This legislation also increased, from \$5,000 to \$10,000, the annual gross receipts cap that must not be exceeded if one is to qualify for the license fee reduction (75 Del. Laws c 171; SB 108).
7/19/05	1/1/06	Reduced gross receipts tax rates by 20% for all categories of taxpayers except automobile manufacturers, for which rates are reduced 25%. Further, the Act



## **BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX**

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		increased the monthly exemption amount by \$30,000 for all categories except manufacturing (75 Del. Laws c 199; HB 303).
6/27/06	1/1/03	Established an exemption from business license and gross receipts taxes for individuals providing instructional services to the Delaware State Fire School on a contractual basis for periods beginning after 12/31/02 and ending on or before 12/31/05 (75 Del. Laws c311; HB 382).
7/1/06	7/1/06	Extended "Blue Collar" provisions, for one month, through January 31, 2007 (75 Del. Laws c352; SB 400).
7/10/06	1/1/02	Repealed Foreign Sales Corporation and Export Trading Company exemptions and conformed Delaware law to amendments of the Internal Revenue Code and rulings by the World Trade Organization (75 Del. Laws c 412; HB 398).
7/10/06	7/10/06	Required the Division of Revenue to publish, on its website, the top 100 delinquent taxpayers owing (i) personal income tax and (ii) business tax liabilities under Title 30 of the Delaware Code. Overdue liabilities subject to posting are limited to those taxes administered by the Department of Finance (75 Del. Laws c 406; HS 1 for HB 118).
7/10/06	1/1/07	Decreased the rate of interest assessed on overdue tax liabilities and paid on outstanding tax refunds from 1% to 0.5% and increased the penalties assessed on overdue liabilities from 0.5% to 1% (75 Del. Laws c 411; HB 397).

## **FILING PROCEDURES AND PAYMENT DATES**

Every company or person conducting any business activity in Delaware must complete a "Combined Registration Application for State of Delaware Business License and/or Withholding Agent." The information from this form is entered in the state's business master file, which houses records of all transactions subject to the business and occupational license taxes, withholding taxes, and corporation income taxes.

Businesses may register online using the One Stop Business Registration and Licensing System. With it, a business can register with Delaware's Division of Revenue, Division of Unemployment Insurance and Office of Workers Compensation. Links are also provided to the State's incorporation forms as provided by the Delaware Division of Corporations and the Internal Revenue Service where the business may obtain a Federal Employer Identification Number (FEIN).

## **BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX**

Although the One Stop System addresses basic registration requirements, businesses must independently comply with local zoning laws, the Division of Professional Regulations, the Departments of Agriculture, Health, Natural Resources & Environmental Control, State and Transportation as necessary.

Businesses must pay the gross receipts tax on or before the 20<sup>th</sup> day of the month with respect to aggregate taxable receipts for the preceding month or quarter. Larger taxpayers file on a monthly basis; smaller taxpayers file on a quarterly basis. Filing frequencies are updated annually and are determined by reviewing each taxpayer's historic records during a "look-back" period. Certain occupations and professions referred to previously are exempt.

### **PENALTIES AND INTEREST**

Failure to timely file required returns for monthly or quarterly gross receipts taxes will result in late filing penalties of 5% per month, up to a maximum of 50% of the amount of tax due, plus interest of 1% per month from the due date until the date of payment. For tax periods beginning on or after January 1, 2007, the rate of interest assessed shall be reduced from 1% to 1/2 % per month.

Failure to pay the amount of tax shown to be due on any gross receipts tax return will result in a failure to pay penalty of 1/2% per month, up to a maximum of 25% of the amount of tax unpaid. For tax periods beginning on or after January 1, 2007, the rate of penalty shall be increased from 1/2% to 1 % per month.

If such deficiency is due to negligence, a penalty of 20% of the amount is due. If a substantial understatement of the tax is made, a penalty of 40% is due. Where any part of the deficiency is due to fraud, a fraud penalty of 75% may also be imposed. If imposed, the fraud penalty is in lieu of the late filing and negligence penalties.